THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :18378 OF 2007

DATED:30-08-2007

BETWEEN:

M/s Peddabbai Enterprises,
Rep., by its Proprietor Nukala Ramalingeswara Rao,
Jaggaiahpet Town,
Krishna District.

.....
PETITIONER

AND

The Prohibition & Excise Superintendent,
Machilipatnam,
Krishna District & 6 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner; learned Government Pleader for Excise as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the respondents in harassing by interfering with the business of the petitioner in black jaggery and Alum under valid licences, and seizing the said jaggery and Alum *in spite* of production of bill and way bills evidencing that it was purchased under bills and transport under way bills, and not allowing the petitioner to carry on the business in black jaggery and Alum, as illegal, and arbitrary.

3. It is the case of the petitioner that he is the resident of Jaggaiahpet town, Krishna District and carrying on the business in Kirana, jaggery, Black jaggery and Alum under the name and style 'M/s Peddabbai Enterprises' which has its branch in Mellacheruvu, Nalgonda District. It is stated that after taking necessary certificates of registration issued by the Commercial Tax Officer, Nalgonda he is purchasing Black jaggery, Alum under proper bills from various places namely Chittoor, Anakapalli, Nizamabad, and Hyderabad and selling to various customers under valid bills. It is stated that the said black jaggery is not a prohibited item and it is an agricultural produce and therefore, he can purchase and sell the same.

4. It is true that the said items are not prohibited items but under Section 34(2) of the A.P.Excise Act (for brevity, 'the Act') whoever in contravention of the Act or of any rule, notification or order made, issued or passed thereunder or of any licence or permit granted or issued under this Act, uses keeps or has in his possession of any materials, stills, utensils, implements or apparatus whatsoever for the purpose of manufacturing any intoxicant, is liable to be prosecuted. Therefore, if the said black jaggery is possessed or sold for the purpose of manufacturing any intoxicant it is open for the Excise authorities to seize and penalize the offenders, but as long as there is no averment that the said black jaggery or Alum was found in possession of the petitioner and sold for the purpose of manufacturing any intoxicant it may not be open for the Excise authorities to interfere with the business of the petitioner, but however, I do not see any material to show that the Excise authorities have been illegally interfering with the lawful business of the petitioner.

5. Having regard to the facts and circumstances of the case, respondents are directed not to interfere with the purchase and sale of the black jaggery and Alum under proper bills and even if they are purchased under proper bills and sold to the manufacturers of the liquor it is always open for the Excise authorities to register a case by seizing the said materials for penalizing all the concerned under Section 34(e) of the Act.

6. Accordingly, Writ Petition is disposed of. No order as to costs.

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V.ESWARAIAH,J

30th August, 2007.
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